

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI

CLAIRE E. WEBB,

Plaintiff,

v.

MATTHEW A. EHLMAN, et al.

Defendants.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Case No.: 1:19-cv-00972

Judge \_\_\_\_\_

**ANSWER, AFFIRMATIVE  
DEFENSES, AND JURY  
DEMAND OF DEFENDANTS,  
MATTHEW A. EHLMAN AND  
THORNTON  
TRANSPORTATION LLC**

\*\*\*\*\*

Defendants Matthew A. Ehlman and Thornton Transportation LLC (incorrectly identified in Plaintiff's Complaint as "Thornton Transportation, LLC")(hereinafter "Defendants"), by and through counsel, hereby answers Plaintiff's Complaint as follows:

**FIRST CAUSE OF ACTION**

1. Defendants deny for want of knowledge the allegations contained in ¶ 1.
2. Defendants deny the allegations contained in ¶ 2.
3. Defendants deny the allegations contained in ¶ 3.

**SECOND CAUSE OF ACTION**

4. In response to ¶ 4 of the Complaint, Defendants reincorporate their responses to ¶¶ 1 through 3 of the Complaint as if fully rewritten herein.

5. Defendants deny the allegations contained in ¶ 5.
6. Defendants deny the allegations contained in ¶ 6.

**THIRD CAUSE OF ACTION**

7. In response to ¶ 7 of the Complaint, Defendants reincorporate their responses to ¶¶ 1 through 6 of the Complaint as if fully rewritten herein.

8. Defendants deny for want of knowledge the allegations contained in ¶ 8.

9. Defendants deny for want of knowledge the allegations contained in ¶ 9.

10. Defendants deny for want of knowledge the allegations contained in ¶ 10.

**FOURTH CAUSE OF ACTION**

11. In response to ¶ 11 of the Complaint, Defendants reincorporate their responses to ¶¶ 1 through 10 of the Complaint as if fully rewritten herein.

12. Defendants deny for want of knowledge the allegations contained in ¶ 12.

13. Defendants deny for want of knowledge the allegations contained in ¶ 13.

14. Defendants deny for want of knowledge the allegations contained in ¶ 14.

15. Defendants deny for want of knowledge the allegations contained in ¶ 15.

16. Defendants deny the allegations contained in ¶ 16.

17. Defendants deny for want of knowledge the allegations contained in ¶ 17.

18. Defendants deny for want of knowledge the allegations contained in ¶ 18.

**FIFTH CAUSE OF ACTION**

19. In response to ¶ 19 of the Complaint, Defendant reincorporates his responses to ¶¶ 1 through 18 of the Complaint as if fully rewritten herein.

20. Defendants deny for want of knowledge the allegations contained in ¶ 20.

21. Defendants deny for want of knowledge the allegations contained in ¶ 21.

### **SIXTH CAUSE OF ACTION**

22. In response to ¶ 22 of the Complaint, Defendants reincorporate their responses to ¶¶ 1 through 21 of the Complaint as if fully rewritten herein.

23. Defendants deny the allegations contained in ¶ 23.

24. Defendants deny the allegations contained in ¶ 24, improperly listed as a second ¶ 23 in Plaintiff's Complaint.

25. Defendants deny the allegations contained in ¶ 25, improperly listed as ¶ 24 in Plaintiff's Complaint.

### **AFFIRMATIVE DEFENSES**

1. Defendants deny each and every allegation, averment and claim, which is not specifically herein admitted to be true.

2. Plaintiff's Complaint fails to state a valid claim upon which relief can be granted.

3. Plaintiff was not physically or emotionally injured in the subject accident and sustained no compensable damages.

4. Plaintiff's claims and Plaintiff's alleged damages, losses and/or injuries, if any, may be barred and/or reduced by Plaintiff's own comparative/contributory negligence and/or Plaintiff's express, implied, primary and/or unreasonable assumption of risk.

5. Plaintiff may not be the real party in interest and/or may lack standing or capacity with respect to Plaintiff's asserted allegations and/or claims.

6. Plaintiff may have failed to join all necessary and indispensable parties.

7. Plaintiff may have failed to mitigate damages, if any.

8. Plaintiff's claims may be barred due to ineffective service; ineffective service of process; improper commencement; and/or lack of subject matter jurisdiction.

9. Plaintiff's claims may be time-barred due to failure to comply with the applicable limitations period(s).

10. Plaintiff's action may be barred by the doctrine of sudden emergency and/or act of God.

11. Plaintiff's claims may be barred due to lack of foreseeability and/or lack of proximate cause and/or by the doctrine of intervening, superseding causation.

12. Defendants reserve the right to seek a set-off and to assert the fault of one or more other/non-parties.

13. Plaintiff's damages, if any, are subject to a statutory cap.

14. Plaintiff's claims may be barred by the doctrines of waiver, release, accord and satisfaction, estoppel, unclean hands and/or laches.

15. Plaintiff's claims may be barred by fraud and/or illegality.

16. Plaintiff's claims may be barred due to discharge in bankruptcy.

17. Defendants assert and incorporate by reference all affirmative defenses referenced in Ohio's Civil Rules, including all affirmative defenses specified in Ohio Civ. R. 8.

18. Defendants reserve the right to raise such further defenses as shall become manifest during completion of discovery.

**WHEREFORE**, Defendants Matthew A. Ehlman and Thornton Transportation LLC, through counsel, pray that Plaintiff's Complaint be dismissed with prejudice with all costs and attorney's fees assessed to the Plaintiff.

Respectfully submitted,

REMINER CO., L.P.A.

/s/ Robert W. Hojnoski

Robert W. Hojnoski (0070062)

Jennifer J. Jandes (0097313)

525 Vine St., Suite 1500

Cincinnati, OH 45202

Tel: (513) 721-1311; Fax: (513) 721-2553

Email: [rhojnoski@reminger.com](mailto:rhojnoski@reminger.com)

***Counsel for Defendants Matthew Ehlman and  
Thornton Transportation LLC***

**JURY DEMAND**

Defendants hereby request a trial by jury on all issues so triable.

Respectfully submitted,

REMINER CO., L.P.A.

/s/ Robert W. Hojnoski

Robert W. Hojnoski (0070062)

Jennifer J. Jandes (0097313)

525 Vine St., Suite 1500

Cincinnati, OH 45202

Tel: (513) 721-1311; Fax: (513) 721-2553

Email: [rhojnoski@reminger.com](mailto:rhojnoski@reminger.com)

***Counsel for Defendants Matthew Ehlman and  
Thornton Transportation LLC***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing has been electronically filed this 15th day of November, 2019. A copy has also been served via email/U.S. mail upon the following:

Joseph T. Mordino  
Christine C. Steele  
Faulkner & Tepe, LLP  
1 W. 4<sup>th</sup> Street, Suite 2050  
Cincinnati, OH 45202  
[jmordino@faulkner-tepe.com](mailto:jmordino@faulkner-tepe.com)  
[csteele@faulkner-tepe.com](mailto:csteele@faulkner-tepe.com)  
***Counsel for Plaintiff***

United Healthcare  
PO Box 740801  
Atlanta, GA 30374  
***Defendant***

Metlife Auto & Home  
PO Box 6040  
Scranton, PA 18505  
***Defendant***

/s/ Robert W. Hojnoski  
Robert W. Hojnoski (0070062)